



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUL 21 2014

REPLY TO THE ATTENTION OF:

WN-16J

Karl Gebhardt, Chief  
Division of Surface Water  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Re: U.S. Environmental Protection Agency Review of National Pollutant Discharge Elimination System (NPDES) Permit  
CONSOL Mining Company LLC, Muskingum Mine  
Ohio Permit No. 0IL00038\*KD; Application No. OH0059196

Dear Mr. Gebhardt:

On July 1, 2014 the Ohio Environmental Protection Agency (OEPA) submitted to U.S. EPA via email a proposed NPDES Permit for discharges from the CONSOL Mining Company LLC, Muskingum Mine, located in Morgan County, Ohio. OEPA submitted the proposed permit for EPA review under Section 402(d)(2) of the Clean Water Act (CWA) and 40 CFR § 123.44(d) in accordance with Section V. C. of the NPDES Memorandum of Agreement between EPA and OEPA.

Based on our review of the proposed permit, EPA would not object to issuance of this permit. However, we have substantive concerns about two specific issues. These issues are summarized in Enclosure A with this letter.

Our position regarding the non-objection to this proposed permit could change if any of the following occurs:

- a. Prior to the actual date of issuance of the permit, an effluent guideline or standard is promulgated which is applicable to the permit and which would require revision or modification of a limitation or condition set forth in the draft permit;
- b. A variance is granted and the permit is modified to incorporate the results of that variance;
- c. There are additional revisions to be incorporated into the permit which have not been agreed to by EPA; or
- d. EPA learns of new information, including as the result of public comments, which causes EPA to reconsider its position.

Subject to the above conditions, the permit may be issued in accordance with the Memorandum of Agreement and pursuant to the Clean Water Act.

When the permit is issued, please forward an electronic copy of the permit to this office using the e-mail address [R5NPDES@epa.gov](mailto:R5NPDES@epa.gov). If you have any questions related to EPA's review of this proposed permit, please contact Bob Newport. Bob can be reached by telephone at (312) 886-1513 or by e-mail at [newport.bob@epa.gov](mailto:newport.bob@epa.gov).

Thank you for your work on this permit.

Sincerely,

A handwritten signature in dark ink, appearing to read "K. M. Pierard", written in a cursive style.

Kevin M. Pierard, Chief  
NPDES Programs Branch

Enclosure

## Enclosure A

1. EPA recommends that the discharge monitoring requirements in the permit include the following parameters:

Parameter	Explanation
Aluminum	Known or suspected to be present in coal mining related discharges. Identified as believed present in the discharge in the permit application.
Mercury	Known or suspected to be present in coal mining related discharges. Mercury can have significant impacts on aquatic communities.
Calcium Magnesium Sodium Chlorides	Calcium, magnesium, and sodium have been identified as possible contributors to toxicity related to TDS and sulfate. Magnesium was reported as present in the discharge in the permit application. Chlorides will be monitored upstream and downstream of the discharges, but the proposed permit does not require the permittee to test the discharge for chlorides. It would make sense to test the discharges for chlorides as well and to then evaluate all the data together.
Toxicity	Although the downstream biological data is not showing impairments, and in fact there has been substantial improvement since the 1989 survey, EPA recommends that the permit include a toxicity testing requirement for the discharge. This is based in part on the fact that measured concentrations of TDS in the discharge exceed what the effluent limit would be expected to be (1,500 mg/L). Also, the State's summary of biological data indicates that "the high conductivity noted at the sampling locations is likely negatively influencing the aquatic communities".

2. EPA strongly recommends that the word "may" be replaced with the word "must" in the following sentence from the Preliminary Effluent Limit (PEL) section of the proposed permit (page 10):

"If the permittee cannot reduce discharge levels below the PEL within six months after ~~either of conditions 1 or 2~~ above ~~are~~ is met, the permittee ~~may~~ must request to modify the permit to contain a compliance schedule."

Ohio EPA staff have indicated via email (July 17, 2014) that this change is consistent with how the PEL language will be framed in other permits. In conference calls State staff have indicated this change is consistent with the intent of the PEL language. EPA is of the view that making this change is essential for the PEL provisions in the permit to achieve their intended purpose.